

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.04.2015

CORAM:

THE HON'BLE MR. JUSTICE SATISH K. AGNIHOTRI
and
THE HON'BLE MR. JUSTICE M. VENUGOPAL

W.P. No.12697 of 2015 and M.P. No.1 of 2015

Dr. Geetha Devadas

Petitioner

Vs.

1 The Commissioner
Chennai Municipal Corporation
Chennai 600 003

2 The Regional Deputy Commissioner (Central)
Door No.36-B, II Cross Street
Pulla Avenue
Shenoy Nagar
Chennai 600 030

3 V. Vyas

4 The Member Secretary
Chennai Metropolitan Development Authority
No.1, Gandhi Irwin Road
Chennai 600 008

Respondents

Writ Petition filed under Article 226 of the Constitution of India seeking a writ of mandamus directing the respondents to stop all the unauthorised and illegal constructions put up in Plot No.4575 B, Door No. Y 225, VI Main Road, III Street, Anna Nagar, Chennai 600 040, being constructed by the third respondent by considering the representation dated 10.04.2015 to the second respondent followed by the representation dated 18.04.2015 to the respondents 1,2 and 4.

For petitioner Mr. P. Raja

For RR 1 & 2 Ms. Karthikaa Ashok
Standing Counsel

For R4 Mr. K. Raja Shrinivas
Standing Counsel

ORDER

(Order of the Court was made SATISH K. AGNIHOTRI, J.)

Ms. Karthikaa Ashok, learned Standing Counsel, accepts notice for respondents 1 and 2. Mr. K. Raja Shrinivas, learned Standing Counsel, accepts notice for the fourth respondent. It is not necessary to issue notice to the third respondent as it is a case of only consideration of the petitioner's representation and no decision can be taken on the said representation without affording an opportunity of hearing to the third respondent. Thus, with the consent of the learned counsel for the parties, the writ petition is taken up for final disposal, at the admission stage itself, without issuing notice to the third respondent.

2 This writ petition is filed seeking a writ of mandamus directing the respondents to stop all the unauthorised and illegal constructions put up in Plot No.4575 B, Door No. Y 225, VI Main Road, III Street, Anna Nagar, Chennai 600 040, being constructed by the third respondent by considering the petitioner's representation dated 10.04.2015 to the second respondent followed by her representation dated 18.04.2015 to the respondents 1,2 and 4.

3 The terse facts of the case are that the petitioner, alleging that the third respondent is carrying out unauthorised construction thereby affecting her easementary rights, has addressed a representation dated 10.04.2015 to the second respondent, followed by another representation dated 18.04.2015 addressed to the official respondents, seeking to stop the said unauthorised construction and also to demolish the illegal construction already made by the third respondent. Pending those representations, the petitioner has preferred the instant writ petition on 22.04.2015.

4 We are afraid that we cannot entertain this writ petition, at this stage, for the reason that without waiting for a reasonable time after addressing the representations, the petitioner has hurriedly preferred the instant petition in a span of just four days from the date of filing her second representation dated 18.04.2015, seeking a mandamus, which is normally issued against an authority for non-action or inaction or against wrong action. Certainly, this is not a case where issue of non-action, wrong action or inaction has arisen, inasmuch as the official respondents have not been given a reasonable time to act on the petitioner's representations and we deprecate this practice of the petitioner in rushing to the Court in haste invoking the extra-ordinary jurisdiction of the High Court under Article 226 of the Constitution of India, as this practice is tantamount to abuse of judicial process.

5 However, considering the submission made by the learned counsel for the petitioner that it would suffice if a direction is given to the official respondents to consider and pass orders on the petitioner's representations within a time frame, we direct the official respondents to consider and pass orders on the petitioner's representations dated 10.04.2015 and 18.04.2015 on their own merits and in accordance with law, after affording an opportunity of hearing to all the parties concerned, within a period of eight weeks from the date of receipt of a copy of this order. Needless to state that each and every submission averred by the petitioner in her representations is to be adverted to and a reasoned order is required to be passed.

6 The writ petition stands disposed of with the above direction and observation. No costs. Connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

cad
To

- 1 The Commissioner
Chennai Municipal Corporation
Chennai 600 003
- 2 The Regional Deputy Commissioner (Central)
Door No.36-B, II Cross Street
Pulla Avenue
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Chennai 600 030
- 3 The Member Secretary
Chennai Metropolitan Development Authority
No.1, Gandhi Irwin Road
Chennai 600 008

+ 1 cc to Mr/s. Karthika, Advocate SR.23389
+ 1 cc to Mr.K. Raja Srinivas Advocate SR.23606
+ 1 cc Government Pleader Sr.23204

VSN(CO)
EU 14.05.2015

W.P. No.12697 of 2015